In the High Court of Judicature at Madras

Dated: 13.03.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

W.P.No.2570 of 2007
& M.P.No.1 of 2007

R.Rajeswari .. Petitioner

Vs..

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.

2.The Special Commissioner,
Office of the Special Commissioner for the
Disabled, 15/1, Model School Road,
Thousand Lights, Chennai-6. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents not to remove or disturb the bunk stall of the petitioner in any manner and direct the first respondent to grant licence to the petitioner for the bunk shop.

For Petitioner : Mr.R.Sampathkumar
For 1st respondent : Mr.A.Mohamed Ghouse
For 2nd respondent : Mr.K.Elango,
Special Government Pleader

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ORDER

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner has approached this Court to issue a writ of mandamus directing the respondents not to remove or disturb the bunk stall of the petitioner in any manner and direct the first respondent-the Commissioner, Corporation of Chennai, to grant licence to her to run the bunk shop.

2. According to the petitioner, she is a poor Adi Dravidar

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woman and also handicapped with 90% permanent physical impairment/disability and the same has been certified by the District Physically Handicapped Rehabilitation Centre, Chennai. She is running a small bunk-cum-tea stall on the platform at No.1, Harrington Road, Chetput, Chennai-31 and this is the only source of income for her family. It is further stated that though the second respondent issued orders/letters instructing the Officers of the first respondent not to disturb her in the place in question, the officials of the Chennai Corporation insisting her to remove the bunk stall and threatening her that if she fails to remove the bunk voluntarily, they would remove by force, which necessitated her to file the present writ petition.

3. Pursuant to the direction of this Court, the Junior Engineer, Division 78, Unit 15. Zone V of Corporation of Chennai, has filed a report, wherein it is stated that No.1, Harrington Road, Chetpet, Chennai-31 is situated at junction point of Valluvarkottam High Road, Harrington Road, Mc Nichols Road and Spur Tank Road. The said location is always busy with heavy vehicular and pedestrian traffic and the width of the platform at No.1, Harrington Road, Chetpet, Chennai-31, is very narrow. Accordingly, the Junior Engineer has stated that if any bunk is permitted to put on the platform at No.1, Harrington Road, Chetpet, Chennai-1, it will be great hindrance and obstruction to the vehicular and pedestrian traffic. In the same report, it is further stated that the Corporation of Chennai neither permit to erect any bunk on the road margins or on the footpaths nor to issue licence for the same to run the business on the road margins or on the footpaths.

4. After the report of the Junior Engineer, we have directed the second respondent to verify and file an affidavit with reference to various documents produced and annexed in the typed set of papers filed by the petitioner. Pursuant to the same, the State Commissioner for the disabled, Chennai-6 has filed a counter affidavit dated 07.03.2007. The information furnished in para 5 of his counter affidavit are relevant, they are as follows:

> "By a letter dated 08.04.2004, our officer instructed the first respondent to permit certain bunk shop owners, who are disabled persons, to install their bunks, which have been evicted earlier by Corporation Officials and to provide alternative site to install bunks to all so as to enable them to eke out their livelihood. In the said instruction, our Officer has enclosed an annexure containing 15 names of the disabled persons with other details. But at no point, we have issued any letter to the first respondent recommending the name of the writ petitioner. I have perused the alleged letter dated 10.10.2006 from our office to the first respondent (page 10 of the typed set of papers). The said letter has not been issued

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from our office. It is clear case of fabricated document. Similarly, I have also perused the letter dated 24.11.2003, addressed by the first respondent to our office. In the said letter, name of the disabled persons has not been mentioned, whereas at page No.6 of the typed set of papers, I found that the name of the petitioner has been written at the bottom of said letter. The said writing of the name of the petitioner is a clear case of interpolation."

5. The above information shows that though the petitioner is a disabled person, in fact, her name was not recommended among the 15 names mentioned in annexure. Regarding the letter dated 10.10.2006 said to have been addressed by them to the first respondent, the second respondent/State Commissioner for the Disabled, Chennai, has stated that the said letter has not been issued from their Office and it is a fabricated one.

6. Taking note of the factual details furnished by the second respondent as well as the report filed by the Junior Engineer of the first respondent, we are not inclined to accede to the request of the petitioner and issue direction as claimed. Though action has to be taken against the petitioner for furnishing fabricated documents, in view of the fact that the petitioner being a disabled person, we resist from taking any action against her. However, the petitioner is free to make a representation to the first respondent highlighting her grievance by enclosing all the required document to show that she is disabled and physically handicapped person. If any such application is made, it is for the first respondent to consider her grievance, if the same is permissible and allot a place in anywhere, which is an unobjectionable, within a period of four weeks from the date of receipt of such representation.

7. The writ petition is dismissed with the above observation. No costs. In view of the disposal of the writ petition, WPMP No.1 of 2007 is also dismissed as unnecessary.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

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Chennai-600 003.

2.The Special Commissioner,
Office of the Special Commissioner for the
Disabled, 15/1, Model School Road,
Thousand Lights, Chennai-6.

+1cc to Mr.R.Sampathkumar, Advocate Sr 15725
+1cc to Mr.A.Mohamed Gouse, Advocate Sr 15735
+1cc to Govt.Pleader Sr 15603

Mathy (CO)
km/21.3.

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